Child Welfare Information Gateway
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STATE STATUTES SERIES

Current Through January 2005

State Regulation of Adoption Expenses

Nearly all States,[1] the District of Columbia, and the U.S. territories have enacted statutes that provide some regulation of the fees and expenses that adoptive parents are expected to pay when arranging an adoptive placement. Some of the fees and expenses that are typically addressed in the statutes are placement costs, such as agency fees; legal and attorney expenses for adoptive and birth parents; and some of the expenses of the birth mother during pregnancy.

[1] Hawaii, Rhode Island, Wyoming, and the Virgin Islands do not currently address the issue of adoption expenses in statute.

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Birth Parent Expenses

Approximately[2] 45 States,[3] American Samoa, and the Northern Mariana Islands have statutes that specify the type of birth parent expenses a prospective adoptive family is allowed to pay. The actual dollar amount is usually limited by the standard of "reasonable and customary."

The types of expenses most commonly allowed by statute include:

- Maternity-related medical and hospital costs
- Temporary living expenses of the mother during pregnancy
- Counseling fees
- Attorney and legal fees; guardian *ad litem* fees
- Travel costs, meals, and lodging when necessary for court appearances or accessing services
- Foster care for the child, when necessary

Approximately eight[4] States specify expenses that the adoptive parent is not permitted to pay. Certain costs such as educational expenses, vehicles, vacations, permanent housing, or any other payment for the monetary gain of the birth parent often are excluded.

Approximately 17 States[5] specify that payments for the birth mother's living expenses or psychological counseling may not extend beyond a set time period, which can range from as little as 30 days to as long as 6 weeks after the child's birth.

In a few States, the payment of expenses may not exceed a set dollar amount,[6] unless the court grants an exception. Iowa allows postplacement counseling for 60 days but limits payment of living expenses to 30 days. New York limits payment of living

[2] The word *approximately* is used to stress the fact that statutes are constantly being revised and updated. The information in this publication is current through January 2005.

[3] Hawaii, Massachusetts, Nebraska, Rhode Island, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands do not currently address the issue of birth parent expenses in statute.

[4] Illinois, Kentucky, Michigan, Minnesota, Montana, New Hampshire, North Dakota, and Wisconsin

[5] Florida, Idaho, Illinois, Indiana, Iowa, Louisiana, Michigan, Minnesota, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Tennessee, and Vermont

[6] Arizona ($1,000), Connecticut ($1,500), Idaho ($2,000), Indiana ($3,000), and Wisconsin ($1,000)

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expenses to 60 days prior to the child's birth and 30 days after. Oklahoma allows payments for postplacement counseling for up to 6 months but limits other expenses to 2 months beyond placement.

In other States, the statutes do not specify the types of expenses that are not allowed but do include language indicating that any expense not expressly permitted by law[7] or considered by the court to be unreasonable[8] cannot be paid by the adoptive parents.

Idaho, in addition to its other restrictions, is the only State that requires reimbursement of expenses to prospective adoptive parents should the birth parent decide not to place the child for adoption.

Agency Fees and Costs

The fees charged by agencies and the extent to which they are regulated by State authorities vary from State to State. The fees are ordinarily determined by administrative rules, regulations, and standards—not by statute—and are subject to court approval.

Approximately five States[9] specify a dollar amount for agency fees or specific services that agencies provide. In most States, the statutes simply authorize agencies to collect "reasonable and customary" fees for the adoption services provided.

The services that agencies typically provide include preparation of the preplacement and postplacement home studies of the adoptive family, a social and medical history of the birth family, and birth family counseling. Sometimes, agencies also will receive payment for birth parent expenses and make appropriate disbursements. In addition, in some States, agencies are allowed to factor a portion of their administrative costs into their placement fees.

[7] Delaware, Iowa, Louisiana, Missouri, New Mexico, Ohio, Oregon, Texas, Utah, West Virginia, and Wisconsin

[8] Arizona, California, Florida, Kansas, Kentucky, Missouri, Ohio, Oklahoma, Pennsylvania, South Carolina, and Virginia

[9] Alabama, California, Indiana, Maine, and Wisconsin specify a dollar amount in statute for some specific services.

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Use of an Intermediary

In an independent adoption, a person or organization will often act as an intermediary to match or bring together a prospective adoptive parent with a birth mother wishing to place her child. In an effort to ensure that no person, either the intermediary or a member of the birth family, profits from the placement of a child, many States have enacted statutes to regulate the use of intermediaries.

For example, some States restrict the activities of intermediaries with language that prohibits "giving or accepting payment for the placement of a child, or obtaining a consent to adoption." Other States limit the fees that an intermediary may collect to a sum that is "reasonable and customary" compensation for actual services provided, while, in some States, the statutes prohibit private intermediaries altogether, restricting all adoptive placements to licensed or State agencies.[10]

Reporting to the Court

Approximately 37 States,[11] American Samoa, Guam, and the Northern Mariana Islands have statutes requiring that an accounting of all adoption-related expenses be made to the court having jurisdiction over the adoption proceedings.

Typically, the accounting is made in the form of a sworn statement or affidavit. In some States, this statement is attached to the adoption petition. In other States, the accounting must be filed prior to the court hearing on the adoption. Some statutes specify that receipts for all expenses paid must be attached to the statement, and any expense for which a receipt is not presented may be disallowed.

In both private and agency adoptions, the court has the discretion to review all disbursements made for adoption-related expenses, including payments made to or on behalf of the birth parents, and any expense may be denied or modified if the court finds it unreasonable, unnecessary, or not permitted by law.

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[10] For more information on this issue, see the Information Gateway publication *Use of Advertising and Facilitators in Adoptive Placements* at www.childwelfare.gov/systemwide/laws_policies/statutes/advertising.cfm.

[11] Connecticut, Hawaii, Idaho, Massachusetts, Minnesota, Mississippi, Nebraska, South Dakota, Texas, Washington, Wyoming, the District of Columbia, Puerto Rico, and the Virgin Islands do not currently require an accounting of expenses to the court in their statutes.

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